



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

501.03-00

Date: January 6, 2010

Release Number: 201013062

Release Date: 4/2/10

LEGEND

ORG = Organization name

XX = Date

Address = address

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

(Phone)

(Fax)

ORG

ADDRESS

LAST DATE FOR FILING A PLEADING
WITH THE TAX COURT, THE CLAIMS,
COURT, OR THE UNITED
STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA:

CERTIFIED MAIL

Dear

This is a final adverse determination regarding your exempt status under section 501(c)(3) of the Internal Revenue Code (the Code). Our favorable determination letter to you dated [date] is hereby revoked and you are no longer exempt under section 501(a) of the Code effective January 1, 20XX.

The revocation of your exempt status was made for the following reason(s):

Organizations exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code are required to operate exclusively for charitable, educational, or other exempt purposes. Organizations are not operated exclusively for exempt purposes if the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization. See Treas. Reg. § 1.501(c)(3)-1(c)(2). Your net earnings inured to or for the use and benefit of your founder through direct payments

the net earnings of the organization inure in whole or in part to the benefit of private shareholders or individuals of the organization. See Treas. Reg. § 1.501(c)(3)-1(c)(2). Your net earnings inured to or for the use and benefit of your founder through direct payments to your founder made without contemporaneous recording of the expenditures as salary or compensation. The net earnings inuring to your founder were substantial in comparison to your total expenditures and were multiple or repeated over a pattern of years. You have not implemented safeguards to prevent a recurrence of your net earnings inuring to your founder. Your activities furthered the private interests of your founder in a more than insubstantial manner. Furthermore, you have failed to adhere to the conditions of your exemption by failing to file required returns (Forms 990, 941, and 945), failing to satisfy your employment tax obligations, and failing to maintain adequate records. You have not operated exclusively for exempt purposes and have operated for the benefit of the private interests in contravention of the requirements of Treas. Reg. § 1.501(c)(3)-1(d)(1)(ii). Therefore your exempt status is being revoked effective January 1, 20XX.

Contributions to your organization are no longer deductible under IRC §170 after January 1, 20XX.

You are required to file income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the tax years ending after December 31, 20XX, in accordance with the instructions of the return.

Processing of income tax returns and assessments of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination under the declaratory judgment provisions of section 7428 of the Code, a petition to the United States Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia must be filed before the 91st Day after the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules regarding filing petitions for declaratory judgments by referring to the enclosed Publication 892. You may write to the United States Tax Court at the following address:

You also have the right to contact the Office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal Appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have

been resolved through normal channels gets prompt and proper handling. You may call toll-free and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

See the enclosed Notice 1546, Taxpayer Advocate Service - Your Voice at the IRS, for Taxpayer Advocate telephone numbers and addresses.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Douglas Shulman
Commissioner
By

Sunita Lough
Director, EO Examinations

Enclosures:
Publication 892
Notice 1546
Notice 437

cc:
(POA)

Internal Revenue Service
Revenue Agent

Department of the Treasury
1100 Commerce Street
Dallas, TX 75242

Date: 1/8/10

Taxpayer Identification Number:

Person to Contact/ID) Number:

ORG
ADDRESS

Contact Numbers:

Telephone:

Fax:

Dear

We are sending the enclosed material under the provisions of your power of attorney or other authorization on file with us. For your convenience, we have listed the name of the taxpayer to whom this material relates.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Lisa A. Thomas
Revenue Agent

Enclosures:

☒ Letter(s)

☐ Report(s)

☒ Other

Taxpayer Name: ORG

Form 886-A	Explanations of Items		Schedule number or exhibit
Name of Taxpayer ORG	Tax Identification Number		Year/Period ended 20XX12, 20XX12, 20XX12

LEGEND

ORG = Organization name XX = Date City = city State = state motto =
motto President = president DIR-1 & DIR-2 = 1st & 2nd Director

ISSUE:

Whether ORG (ORG) continues to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code?

Whether ORG has operated as a for-profit company?

Whether there was inurement or private benefit in the use of organization funds by the President?

Whether the use of organizational funds by the President constitutes an excess benefit transaction?

Whether ORG kept adequate records?

Whether ORG has failed to file required forms?

FACTS:

Exemption

ORG filed Articles of Incorporation with the State of State on August 16, 19XX. Article One of the Bylaws states that EO is organized exclusively for charitable purposes within the meaning of Code §501(c)(3). The article goes on to state that the corporation's primary purposes shall be to educate the public and policy-makers about issues regarding hemp and motto and provide legal charitable services to certain medical patients.

ORG filed Form 1023, Application for Recognition of Exemption Under Section 501(c) (3) of the Internal Revenue Code, on September 12, 19XX. The organizations stated purpose was to educate the public and policy-makers about issues related to hemp and to provide charitable services for certain medical patients.

The organization planned to do this through several media:

- a. Publish a printed and electronic newspaper.
- b. Produce a public-access TV show, "Motto Common Sense".
- c. Disseminate information by mailings to individuals, policy-makers, and elected officials.
- d. Using advertisements as a way of educating the public.

Form 886-A	Explanations of Items		Schedule number or exhibit
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- e. To provide a charitable service to medical patients who have medical cards permitting them to grow motto to alleviate their symptoms or condition. ORG will assist in the production of motto by those patients who are legally entitled to grow motto but are too poor or disabled to do so.

The Form 1023 also stated that the organizations sources of financial support would be “Contributions, benefits”.

Exemption was granted under Section 501(c)(3) and Section 170(b)(1)(A)(vi) of the Internal Revenue Code, on January 26, 20XX, as a publicly supported organization.

The examination of the organization’s books and records showed that ORG is performing some of its stated Form 1023 activities:

- ORG maintains a web site that is accessible by individuals who have access to the internet. It also publishes a newsletter (every 2 or 3 months), that is available in the City area.
- ORG broadcasts the TV show weekly on the City, State. public access cable channel.
- There are no other activities indicated that are used to disseminate information to individuals, policy-makers, and elected officials. There was no evidence of information mailings.
- There was no evidence of advertising other than to promote their clinics.
- ORG does provide a service to medical patients who have medical cards permitting them to grow motto to alleviate their symptoms or condition. They assist in the production of motto for those patients who are legally entitled to grow motto in the state of State but are too ill or debilitated to do the growing themselves.

The examination disclosed that ORG was operating in a manner materially different from that stated in its Form 1023 Application for Exempt Status. Beginning in 20XX, ORG began operating a clinic in City, State. to get individuals signed up for medical marijuana program cards in the state of State. ORG now operates clinics in four (4) states; City, State, City, State, City, State and City, State, to get individuals signed up for those states’ medical marijuana programs. The clinics have become the primary focus of the organization and the organization’s primary source of revenue.

The Form 1023 filing does not state that the organization will operate clinics to help individuals get signed up for the state’s medical marijuana programs. There is no record of ORG sending notification to the IRS of its change in operations as is required in the original determination letter or requesting another determination of exempt status based on the new clinic operations

Foundation Classification

Form 886-A	Explanations of Items		Schedule number or exhibit
Name of Taxpayer ORG	Tax Identification Number	Year/Period ended 20XX12, 20XX12, 20XX12	

In its Form 1023 ORG stated that it expects to receive support from “contributions, benefits”. ORG receives no public support. Forms 990 for the calendar years 20XX and 20XX show that public donations are zero (0). Review of ORG’s books and records showed no contributions from direct public support, indirect support, or government contributions.

ORG has received 100% of its financial support from client fees for services from the operation of its clinics. ORG operates permanent clinics in the states of State, State, and State. It also conducts clinics in City, State (temporary in audit years, permanent in 20XX).

Operation as a For-Profit Company

As previously mentioned, the organization’s primary focus changed from education to the operation of clinics. The purpose of these clinics is to get individuals signed up for the medical marijuana cards in the states of State, State, State, and State. The clinics are open to the general public.

President, President of ORG, stated in the initial interview, held on December 18, 20XX, that the clinics’ offices had volunteers, paid employees and independent contractors. Their responsibilities included answering phone calls, making doctors’ appointments, keeping track of patient visits and reviewing patient records. These activities are consistent with for-profit clinic operations.

If an individual thinks he/she qualifies for, and wishes to participate in, the state’s medical marijuana program, he/she can make an appointment to visit the clinic to have their medical records screened for program qualification. If it is determined by the clinic physician that the individual has a condition that might be helped by medical marijuana, state forms are completed and signed by the clinic physicians to enter that individual into the state’s program.

Clinic operations

A patient makes an appointment to come to the clinic.

On the appointment day the patient comes to the clinic with his/her medical records. The patient is seen by a physician, who reviews the patient’s medical records and examines the individual to determine if the condition in the medical records is consistent with the patient’s observed condition.

If it is determined by the physician that the individual does have a condition specified in the state’s medical marijuana program, the physician fills out a statement on the state form that certifies the individual has a condition that may be helped by medical marijuana. That form is then processed by ORG to get the individual into the state’s medical marijuana program.

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The term patient was used by President, President of ORG, in the initial interview, held on December 18, 20XX. These individuals that make appointments are not patients in the traditional sense of the word, as they receive no treatment at the clinic, only a screening examination to determine eligibility for the state's medical marijuana program.

Fees

There are fees charged by ORG for the services performed in the clinic:

City - \$ (\$ pay in advance), \$ Low Income, will see some patients @ no fee if determined that they can't afford to pay.

City (City) and City - \$ (\$ pay in advance), \$ Low Income, will see some patients @ no fee if determined that they can't afford to pay.

City - \$ (\$ pay in advance), \$ Low Income, will also have to pay \$ fee to state for processing.

The "pay in advance" discount was given if payment was made at the time of the appointment.

Lower fees were required by the state for low income individuals per the state statutes.

ORG requires the patients to pay in cash, by money order, or credit / debit cards. No checks or medical insurance payments are accepted.

Forms 990, Daily Sheets, and summonsed bank statements for the years examined revealed that the income for ORG was understated.

<u>Year</u>	<u>Income per Return</u>	<u>Income per Exam</u>
20XX		
20XX		
20XX	Not Filed	

There was little evidence of any patients receiving any free services in the Daily Sheets examined. There were notations behind a few names on the Daily Sheets marked "free", but there was no explanation as to why.

<u>Year</u>	<u>Number of Patients</u>	<u>Number of Free Exams</u>	<u>Percentage Free Exams</u>
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Form 886-A	Explanations of Items		Schedule number or exhibit
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20XX	28	1.10%
20XX	50	1.32%
20XX	32	0.73%
Totals	110	1.03%

In the initial interview with President, President of ORG conducted on December 18, 20XX, President stated that the clinics are bringing in revenue of about \$ per month after paying the doctors \$ per month for the year 20XX. In addition to the clinic sites the organization goes to City and City, State about 10 times per year and City, State about once per month. Patient volume has increased. He said the income of the clinics has grown 40 -50 % per year.

In a subsequent conversation, the President of the organization, President, stated that ORG had just bought the practice of a deceased doctor in the City, State area. During the conversation President stated that the purchase of the practice should increase the profits of the organization 15%.

Inurement / Private Benefit

ORG's Board of Directors consists of the President, President, President's mother, DIR-1, and an employee of ORG, DIR-2. The board meets once a year. The minutes of the board meetings are worded exactly the same for all three years. Only the dates are changed. The board authorizes the President to raise and spend up to \$ in the next calendar year. It also authorizes the president to pay his own expenses including rent, utilities, and other costs up to \$ for the following year.

President stated that the organization was set up the way it is so he could have complete operational control of the organization. This is further evidenced by the fact that he is the only one who signs checks and approves billing.

Examination of ORG's summoned bank records and credit card statements revealed that the President, President used organization funds for personal expenses such as house rent, car payments, and cash withdrawals.

Year	Expenses Paid by Organization	Reported by President
20XX		0
20XX		0
20XX		0
Total		0

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President failed to report any of the payments on the organization's Form 990 or the Form 1040.

Excess Benefit Transaction

An "excess benefit transaction" is any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

ORG was granted exemption under Section 501(c)(3) and Section 170(b)(1)(A)(vi) of the Internal Revenue Code, on January 26, 20XX, as a publicly supported organization. As such, is an applicable tax exempt organization.

A disqualified person is defined as any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization. A separate draft report on the matter of excess benefit transactions is concurrently being sent to the disqualified person.

Failure to keep adequate records

Examination of summonsed ORG records obtained from third party sources indicates that there is a lack of internal controls. ORG issued numerous checks to cash without receipts. These checks were endorsed by ORG's Executive Officer/President. There was no record of whether these funds were expended on operating costs or used for other purposes.

Cash withdrawals were made from ATM machines. There was no record of whether these funds were expended on operating costs or used for other purposes.

Daily Sheets are the organization's primary record of revenue for the clinics. The front side of the sheet lists the names of the individuals with appointments for the day. On the back side of the sheet the clinic workers total the amount to cash, money orders, and credit /debit card payments for the day. It also lists the cash payments made to the doctors and clinic workers. Incidental cash payments, such as lunch costs, are also recorded. Summonsed records indicate that not all of ORG's Daily Sheets from 20XX were available for examination.

<u>Year</u>	<u>Income per Bank</u>	<u>Income per Daily Sheet</u>
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Form 886-A	Explanations of Items		Schedule number or exhibit
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20XX

The organization's bank records could not be reconciled to the Daily Sheets.

Source documents could not be reconciled to the expenses listed on the Form 990. There was no record of whether these funds were expended on operating costs or used for other purposes.

Failure to file Required Forms

Form 990

The organization did file Forms 990 for the tax years ending 20XX and 20XX. If the organization does not meet any of the exceptions and its annual gross receipts are normally more than \$ it must file Form 990 or Form 990EZ. Summoned third party records indicate the following:

<u>Year</u>	<u>Income per Bank</u>	<u>Income per Daily Sheet</u>
20XX		

The organization had a filing requirement for 20XX because gross receipts exceeded \$.

Forms 990 are due the 15th day of the 5th month following the end of the organization's tax year. Form 990 for the tax year ending 20XX was due May 15, 20XX. This return has not been filed to date and is currently delinquent.

Form 941

ORG had employees and paid wages but failed to file Employment Tax Forms 941, Employer's Quarterly Tax Return, for the reporting periods January 20XX through March 20XX and July 20XX through December 20XX. The Information Document Retrieval System (IDRS), an internal reporting information system data base, was used to determine the non-filed periods of Form 941.

Wages paid subject to Form 941 reporting were determined from examination of Daily Sheets and checks written on ORG's summoned bank accounts. Examination of the organization's cancelled bank checks revealed that ORG paid house rent and utilities for the president along with car payments, insurance, and personal living and travel expenses.

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ORG also paid house rent and utilities for the employees caring for its grow houses, and for employees living in State. The following schedule was prepared by the revenue agent to reflect the wages paid to employees based on examination of the organization's cancelled bank checks and credit card statements.

<u>Quarter</u>	<u>Wages</u>		<u>Difference</u>
	<u>Paid</u>	<u>Per 941</u>	
20XX03		-	
20XX06		-	
20XX09		-	
20XX12		-	
20XX03		-	
20XX09		-	
20XX12		-	

Although the column header is titled Per 941, no returns were filed.

The following table prepared by the revenue agent reflects the wages paid by the organization for the reporting periods June 20XX through June 20XX.

<u>Quarter</u>	<u>Wages Paid</u>	<u>Tax Liability</u>
20XX06		
20XX09		
20XX12		
20XX03		
20XX06		

ORG filed Employment Tax Forms 941 for the reporting periods June 20XX through June 20XX but failed to meet the related tax liability for those periods. Although a check was submitted with the forms it was dishonored for payment. The non-paid tax liability on the reported wages was referred to Collection Division by the Service Center for payment. Levies have been issued.

Examination of ORG's Daily sheets and cancelled bank checks revealed that ORG paid additional wages above those reported on Forms 941 for the reporting periods April 20XX through June 20XX.

<u>Quarter</u>	<u>Wages Paid</u>	<u>Per 941</u>	<u>Difference</u>
20XX06			
20XX09			

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20XX12
20XX03
20XX06

Since ORG has failed to properly report wages paid, amended Forms 941 and the related tax liability are currently due and owing.

Forms W-3 and W-2

ORG failed to file Forms W-3, Transmittal of Wage and Tax Statements, with the service, or issue Forms W-2, Wage and Tax Statement, to its employees for the tax years ending 20XX through 20XX.

Forms 945 and 1099-MISC

President, President of ORG, stated in the initial interview, held on December 18, 20XX, that the organization treated the doctors who worked in the clinics as independent contractors. He went on to state that there were no formal contracts, just verbal agreements, and that they were paid cash on a daily basis.

Examination of Daily Sheets and cancelled checks from the organization revealed that the doctors were paid;

<u>Year</u>	<u>1st Qtr</u>	<u>2nd Qtr</u>	<u>3rd Qtr</u>	<u>4th Qtr</u>	<u>Total</u>
20XX					
20XX					
20XX					

ORG failed to file information Forms 945, Annual Return of Withheld Federal Income Tax, with the service on payments made to independent contractors and issue Forms 1099-MISC, Miscellaneous Income, to Independent Contractors for the tax years ending 20XX through 20XX.

Form 4720

The organization is required to report excise taxes on managers, self-dealers, or disqualified persons in Part II – A of Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code. The organization has failed to file Forms 4720 for the tax years under examination.

LAW:

Form 886-A	Explanations of Items		Schedule number or exhibit
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Code §501(a) provides that an organization described in §501(c) (3) is exempt from income tax. Code §501(c)(3) exempts from federal income tax corporations organized and operated exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual. The term charitable includes relief of the poor and distressed. Federal Tax Regulations (“Regulations”) §1.501(c) (3)-1(d) (2).

Regulations §1.501(c)(3)-1(a)(1) provides that, in order to be exempt as an organization described in Code §501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations §1.501(c)(3)-1(c)(1) provides that an organization will be regarded as “operated exclusively” for one or more exempt purposes only if it engages primarily in activities that accomplish one or more of such exempt purposes specified in Code §501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. The existence of a substantial nonexempt purpose, regardless of the number or importance of exempt purposes, will cause failure of the operational test. Better Business Bureau of Washington, D.C. v. U.S., 326 U.S. 279 (1945).

Regulations §1.501(c)(3)-1(c)(2) provides that the operational test is not satisfied where any part of the organization’s earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private benefit rather than public interests.

Regulations §1.501(c)(3)-1(d)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than private interest. Thus, it is necessary for an organization to establish that is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Prohibited private interests include those of unrelated third parties as well as insiders. Christian Stewardship Assistance, Inc. v. Commissioner, 70 T.C. 1037 (1978); American Campaign Academy v. Commissioner, 92 T.C. 1053 (1989). Private benefits include an “advantage; profit; fruit; privilege; gain; [or] interest.” Retired Teachers Legal Fund v. Commissioner, 78 T.C. 280, 286 (1982).

An IRC §170(b)(1)(A)(vi) organization is defined as an organization referred to in subsection (c)(2) which normally receives a substantial part of its support (exclusive of income received in the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under §501(a)) from a governmental unit referred to in subsection (c)(1) or from direct or indirect contributions from the general public.

IRC §170(c)(2)(B) defines a charitable organization as a corporation, trust, or community chest, fund, or foundation that is organized and operated exclusively for religious, charitable, scientific, literary, or

Form 886-A	Explanations of Items		Schedule number or exhibit
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educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals;

The presence of a single substantial nonexempt purpose can destroy the exemption regardless of the number or importance of exempt purposes. Better Bus. Bureau v. United States, 326 U.S. 279, 238, 90 L. Ed. 67, 66 S. Ct. 112 (1945); Am. Campaign Acad. V. Commissioner, 92 T.C. 1053, 1065 (1989); see also Old Dominion Box Co., Inc. v. United States, 477 F2d. 340 (4th Cir. 1973), cert. denied, 413 US 910 (1973) (“operating for the benefit of private parties who are not members of a charitable class constitutes a substantial nonexempt purpose”). When an organization operates for the benefit of private interests, such as designated individuals, the creator or his family, or persons directly or indirectly controlled by such private interests, the organization by definition does not operate exclusively for exempt purposes. Am. Campaign Acad. V. Commissioner, supra at 1065-1066.

Regulation §31.3121(d)-1(b) states that an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services or performs only minor services and who neither receives nor is entitled to receive, directly or indirectly, any remuneration is considered not to be an employee of the corporation.

IRC §4958(f)(1) defines the term “disqualified person” as: (A) Any person who was, at any time during the 5-year period ending on the date of such transaction, in a position to exercise substantial influence over the affairs of the organization, and (B) A member of the family of an individual described in subparagraph (A).

IRC §4958(c)(1)(A) defines the term “excess benefit transaction” is any transaction in which an economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person if the value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing such benefit. For purposes of the preceding sentence, an economic benefit shall not be treated as consideration for the performance of services unless such organization clearly indicated its intent to so treat such benefit.

IRC §6001 provides that “Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title”

IRC §6033(a)(1) provides that “Except as provided in paragraph (2), every organization exempt from taxation under §501(a) shall file an annual return, stating specifically the items of gross income, receipts, and

Form 886-A	Explanations of Items		Schedule number or exhibit
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disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe; except that, in the discretion of the Secretary, any organization described in §401(a) may be relieved from stating in its return any information which is reported in returns filed by the employer which established such organization.

Paragraph 6033(a)(2) lists mandatory exceptions to paragraph (1) as (i) churches, their integrated auxiliaries, and conventions or associations of churches, (ii) any organization (other than a private foundation, as defined in §509(a)) described in subparagraph (C), the gross receipts of which in each taxable year are normally not more than \$5,000, or (iii) the exclusively religious activities of any religious order.

Regulation 53.6011-1(b) states that Form 4720 must be filed annually reporting the excess benefit transactions that occurred which give rise to the tax liability under IRC §4958.

Rev. Proc. 2008-9, I.R.B. 2008-2 (January 14, 2008), Section 12, states that a determination letter or ruling recognizing exemption may be revoked or modified by a notice to the taxpayer to whom the determination letter or ruling was issued. It went on to say that the revocation or modification of a determination letter or ruling recognizing exemption may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction and where there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of an organization, revocation or modification will ordinarily take effect as of the date of such material change.

Better Bus. Bureau v. United States, 326 U.S. 279, 238, 90 L. Ed. 67, 66 S. Ct. 112 (1945) the court stated that a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.

B.S.W. Group, Inc v. Commissioner, 70 T.C. 352 (1978) the courts ruled the organization did not qualify for exemption under IRC §501(c)(3) because it was not operated exclusively for charitable, educational, or scientific purposes. The courts determined that the organization's planned areas of service were the sort normally carried on by a for profit commercial business such as banks personal agencies and trash disposal firms. The court also found that the organization did not provide any free or below-cost services and their clientele was not limited to IRC §501(c)(3) organizations, which is not a typical financing project of an IRC §501(c)(3) organization. The court stated that the organization does not meet the operational test since it is primarily engaged in an activity of a for-profit business. If it operates like a for-profit, the activities are like a for-profit, if the fees charged are like a for-profit, then it is a for-profit business.

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IRC §4958(a) imposes an initial tax on a disqualified person for each excess benefit transaction a tax equal to 25 percent of the excess benefit.

IRC §4958(a)(2) imposes an initial tax on the participation of any organization manager in the excess benefit transaction, knowing that it is such a transaction, a tax equal to 10 percent of the excess benefit, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the excess benefit transaction.

John Marshall Law School and John Marshall University v. United States, 228 Ct. Cl. 902, 81-2the court sustained the Service's revocation of the school's exempt status based on inurement. The court found inurement existed when the school provided family members who were officers, interest free loans, unsecured loans payments for non-business travel, payments for non-business entertainment, and personal health spa membership.

Government's Position:

ORG does not continue to qualify for exemption under Section 501(c)(3) of the Internal Revenue Code because it has failed to operate exclusively for charitable, educational, and other purposes, provided that no part of the net earnings inure to the benefit of any private shareholder or individual.

ORG describes itself as an educational organizational in its Form 1023 application and filed Forms 990, Return of Organization Exempt from Income Tax. The Form 1023 states that ORG was organized to educate the public and policy-makers about issues related to hemp and to provide charitable services for certain medical patients. The organization planned to do this through several media:

- a. Publish a printed and electronic newspaper.
- b. Produce a public-access TV show,
- c. Disseminate information by mailings to individuals, policy-makers, and elected officials.
- d. Using advertisements as a way of educating the public.
- e. To provide a charitable service to medical patients who have medical cards permitting them to grow motto to alleviate their symptoms or condition. ORG will assist in the production of motto by those patients who are legally entitled to grow motto but are too poor or disabled to do so.

The organization stated that its primary sources of financial support were to be "contributions, benefits".

The examination showed that ORG is performing some of its stated 1023 activities:

- a. ORG maintains a web site that is accessible by individuals who have access to the internet. It also publishes a newsletter (every 2 or 3 months), that is available in the City area.

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- b. ORG broadcasts the TV show weekly on the City, State. public access cable channel.
- c. There are no other activities indicated that are used to disseminate information to individuals, policy-makers, and elected officials. There was no evidence of information mailings.
- d. There was no evidence of advertising other than to promote their clinics.
- e. ORG does provide a service to medical patients who have medical cards permitting them to grow motto to alleviate their symptoms or condition. They assist in the production of motto for those patients who are legally entitled to grow motto in the state of State but are too ill or debilitated to do the growing themselves.

The extent of the educational programs that are carried on by ORG are limited. The weekly TV show is broadcast on the local City, State public access cable system. The newsletter is published every 2 or 3 months and is available only in the City area. The only other educational offering is a video shown in the clinics to the individuals being seen.

The examination disclosed that ORG was operating in a manner materially different from that stated in its Form 1023 Application for Exempt Status. Beginning in 20XX, ORG began operating a clinic in City, State. to get individuals signed up for medical marijuana program cards in the state of State. ORG now operates clinics in a four (4) state area, City, State, City, State, City, State and City, State, to get individuals signed up for those states' medical marijuana programs.

The clinics have become the primary focus of the organization and the organization's primary source of revenue. There is no mention anywhere in the Form 1023 filing that states the organization will operate clinics to help individuals get signed up for the state's medical marijuana programs. This shift in operations is a material departure from the stated goals of the organization as represented in the Form 1023 at the time of its determination letter. There is no record of ORG sending notification to the IRS of its change in operations or requesting another determination of exempt status based on the new clinic operations.

Treas. Reg. 1.501(c)(3)-1(c) (1) *states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).* An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

In *Better Bus. Bureau v. United States*, 326 U.S. 279, 238, 90 L. Ed. 67, 66 S. Ct. 112 (1945) the court stated that a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes.

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Rev. Proc. 20XX-9, I.R.B. 20XX-2 (January 14, 20XX), Section 12, states that a determination letter or ruling recognizing exemption may be revoked or modified by a notice to the taxpayer to whom the determination letter or ruling was issued.

The Rev. Proc. went on to say that the revocation or modification of a determination letter or ruling recognizing exemption may be retroactive if the organization omitted or misstated a material fact, operated in a manner materially different from that originally represented, or engaged in a prohibited transaction and where there is a material change, inconsistent with exemption, in the character, the purpose, or the method of operation of an organization, revocation or modification will ordinarily take effect as of the date of such material change.

ORG operates its clinics in a four (4) state area. The clinics have become the primary focus of the organization and the organization's primary source of revenue. This change in operation constitutes a material change inconsistent with the determination letter ruling of the organization's exemption. ORG's failure to send notification to the IRS of its material change in operations or requesting another determination of exempt status based on the new clinic operations warrants the revocation of ORG's exemption retroactively back to the beginning of 20XX, when the clinics were started, Rev. Proc. 20XX-9, I.R.B. 20XX-2 (January 14, 20XX), Section 12.

Operating as a for profit company

ORG operates permanent clinics in the states of State, State, and State. It also conducts clinics in City, State. (temporary in audit years, permanent in 20XX). The purpose of these clinics is to get individuals who qualify for the states' medical marijuana programs signed up for the programs. The clinics are open to the general public. President, President of ORG, stated in the initial interview, held on December 18, 20XX, that the clinics' offices had volunteers, paid employees and independent contractors. Their responsibilities included answering phone calls, making doctors' appointments, keeping track of patient visits and reviewing patient records. If an individual thinks he/she qualifies for and wishes to participate in the state's medical marijuana program, he/she can make an appointment to visit the clinic to have their medical records screened for program qualification. If it is determined that the individual has a condition that might be helped by medical marijuana, state forms are filled out and signed by the clinic physicians to enter that individual into the state's program.

The clinics operate as follows:

1. A patient makes an appointment to come to the clinic.
2. On the appointment day the patient comes to the clinic with his/her medical records. The patient is seen by a physician, who reviews the patient's medical records and examines the individual to determine if the condition in the medical records is consistent with the patient's observed condition. If

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it is determined by the physician that the individual does have a condition specified in the state's medical marijuana program, the physician fills out a statement on a state form that certifies the individual has a condition that may be helped by medical marijuana.

3. That form is then processed by ORG to get the individual into the state's medical marijuana program.

Note: The term patient was used by President, President of ORG, in the initial interview, held on December 18, 20XX. These individuals that make appointments are not patients in the traditional sense of the word, as they receive no treatment at the clinic, only a screening examination to determine eligibility for the state's medical marijuana program.

Fees – There are fees charged by ORG for the services performed in the clinic:

- a. City - \$ (\$ pay in advance), \$ Low Income, will see some patients @ no fee if determined that they can't afford to pay.
- b. City (City) and City - \$ (\$ pay in advance), \$ Low Income, will see some patients @ no fee if determined that they can't afford to pay.
- c. City - \$ (\$ pay in advance), \$ Low Income, will also have to pay \$ fee to state for processing.

Note: The "pay in advance" discount was given if payment was made at the time of the appointment.

ORG requires the patients to pay in cash, by money order, or credit / debit cards. No checks or medical insurance payments are accepted. There was very little evidence of any "patients" receiving any free services in the records examined. There were notations behind a few names on the Daily Sheets marked "free", but there was no explanation as to why.

ORG is operated in the same manner as a for-profit company, not a public charity.

1. ORG receives no public support, Forms 990 for the calendar years 20XX and 20XX show that public donations are zero (0).
2. The clinics were open to the general public by appointment or on a walk-in basis.
3. There was no contemporaneous evidence of any patients receiving any charitable services in the records examined. There were notations behind a few names on the Daily Sheets marked "free", but there was no explanation as to why. There was no other evidence of any free or below cost services being offered.
4. All fee payments were required to be made in cash, money order, or by credit / debit card. No patients were able to bill the clinic visit to their insurance company.

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During this examination, the President of the organization, President, stated that ORG was attempting to buy the practice of a deceased doctor in the City, State area. During the conversation President stated that the purchase of the practice should increase the profits of the organization 15%. In a later conversation, President revealed that the organization was unable to buy the practice. The attempted purchase of a practice in State and the comments of the President are indications of the for-profit businesslike operation of the organization to expand the clinic operations into State.

In B.S.W. Group, Inc v. Commissioner, 70 T.C. 352 (1978) the courts ruled the organization did not qualify for exemption under IRC §501(c)(3) because it was not operated exclusively for charitable, educational, or scientific purposes.

The courts determined that the organization's planned areas of service were the sort normally carried on by a for profit commercial business such as banks personal agencies and trash disposal firms. The court also found that the organization did not provide any free or below-cost services and their clientele was not limited to IRC §501(c)(3) organizations, which is not a typical financing project of an IRC §501(c)(3) organization. The court stated that the organization does not meet the operational test since it is primarily engaged in an activity of a for-profit business. If it operates like a for-profit, the activities are like a for-profit, if the fees charged are like a for-profit, then it is a for-profit business.

ORG's clinic operation is like the operations in B.S.W. Group, Inc v. Commissioner, 70 T.C. 352 (1978). The clinics are open to the general public, fees are charged for the clinic's services, and there is very little evidence of below-cost or free services provided to the clients.

Year	Number of Patients	Number of Free Exams	Percentage Free Exams
20XX		28	1.10%
20XX		50	1.32%
20XX		32	0.73%
Totals		110	1.03%

With the similar characteristics of the operation of ORG's clinics and the operation of the organization in B.S.W. Group, Inc v. Commissioner, 70 T.C. 352 (1978), the clinics are operated on a for-profit basis. This operation fails the operational test set out in Treas. Reg. 1.501(c)(3)-1(c)(1) as an organization regarded as "operated exclusively" for one or more exempt purposes.

Inurement, private benefit of the President.

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Regulations §1.501(c)(3)-1(c)(2) provides that the operational test is not satisfied where any part of the organization's earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private benefit rather than public interests.

Regulations §1.501(c)(3)-1(d)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than private interest. Thus, it is necessary for an organization to establish that is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests. Prohibited private interests include those of unrelated third parties as well as insiders. *Christian Stewardship Assistance, Inc. v. Commissioner*, 70 T.C. 1037 (1978); *American Campaign Academy v. Commissioner*, 92 T.C. 1053 (1989). Private benefits include an "advantage; profit; fruit; privilege; gain; [or] interest." *Retired Teachers Legal Fund v. Commissioner*, 78 T.C. 280, 286 (1982).

ORG's Board of Directors consists of the President, President, President's mother, DIR-1, and an employee of ORG, DIR-2. The board meets once a year. The minutes of the board meetings are worded exactly the same. Only the dates are changed. The board authorizes the President to raise and spend up to \$ in the next calendar year. It also authorizes the president to pay his own expenses including rent, utilities, and other costs up to \$ for the following year. President has complete operational control of the organization.

Examination of ORG's records revealed that the President, President used organization funds for personal expenses such as house rent, car payments, and cash withdrawals in the amounts listed below:

Year	Expenses Paid by Organization	Reported by President
20XX		0
20XX		0
20XX		0
Total Compensation		0

In *John Marshall Law School and John Marshall University v. United States*, 228 Ct. Cl. 902, 81-2the court sustained the Service's revocation of the school's exempt status based on inurement. The court found inurement existed when the school provided family members who were officers, interest free loans, unsecured loans payments for non-business travel, payments for non-business entertainment, and personal health spa membership.

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ORG was required to report the use of organization funds as W-2 wages because the President, President, meets the definition of an employee in Regulation §31.3121(d)-1(b). The regulation states that an officer of a corporation is an employee of the corporation.

Failure to Keep Adequate Records:

Treasury Regulation §1.6001-1 provides that every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033 and that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

The organization's failure to provide records has similar circumstances to the 9th Circuit Court case of Church of Gospel Ministry, Inc. v. United States, 640 F. Supp. 96, 1986 U.S. Dist. In this case the court denied §501(c)(3) exempt status to the Church of Gospel Ministry, Inc (CGM). The court found that CGM failed to keep adequate records to show that its operations were primarily for religious or charitable purposes and did not inure to the private benefit of its officers.

In CGM the court found that:

1. The church issued numerous checks to cash without receipts. There was no record of whether these funds were expended on operating costs or used for other purposes.
2. CGM also paid certain personal expenses of its officers to compensate them for the use of their homes and cars for CGM business without maintaining adequate records of the arrangements or the payments.

For these and other reasons the court determined that "The failure to present adequate records also prevented CGM from meeting its burden of showing that its operations were primarily for religious or charitable purposes and did not inure to the private benefit of its officers".

The ORG case has similar characteristics. Examination of summonsed ORG records obtained from third party sources indicates the following:

1. ORG issued numerous checks to cash without receipts. These checks were endorsed by ORG's Executive Officer / President. There was no record of whether these funds were expended on operating costs or used for other purposes.
2. Cash withdrawals were made from ATM machines. There was no record of whether these funds were expended on operating costs or used for other purposes.

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3. Summoned records indicate that not all of ORG's Daily Sheets from 20XX were available for examination. The organization's bank records could not be reconciled to the Daily Sheets. There was no record of whether these funds were expended on operating costs or used for other purposes.

<u>Year</u>	<u>Income per Bank</u>	<u>Income per Daily Sheet</u>
20XX		

The strong similarities between the CGM case and the ORG third party summoned record examination leads to the conclusion that ORG, as in CGM, has failed to present adequate records to meet its burden of showing that its operations were primarily for religious or charitable purposes and did not inure to the private benefit of its officers, as required by §501(c)(3).

ORG has failed to file Required Forms

Form 990

The organization had a filing requirement under IRC §6033, as it is an IRC §501(a) organization. Third party records indicate that the organization does not qualify for the filing requirement exemption under IRC §6033(a)(2)(ii) that exempts any organization (other than a private foundation, as defined in §509(a)) the gross receipts of which in each taxable year are normally not more than \$.

The organizations clinic records are kept on "Daily Sheets". These sheets have the appointments scheduled for the day printed on the front side for each clinic. On the back side the clinic workers total the amount of cash, credit card, and debit card payments made for the day. It also lists the cash paid to the doctors and clinic workers for the day. Deposits are made into the organization's bank account after the cash payments are made. In the previous 2 years, 20XX and 20XX, income from the daily sheets is 2.2 and 1.7 times the organization's bank deposits respectively. In 20XX Daily Sheet income of \$ is less than the bank statements listed deposits of \$. This is an indication that not all Daily Sheets have been available for examination from 20XX and that income is understated.

<u>Year</u>	<u>Income per Bank</u>	<u>Income per Daily Sheet</u>
20XX		
20XX		
20XX		

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The organization's Form 990 has not been filed for 20XX. In the initial interview with President, President of ORG conducted on December 18, 20XX, President stated that the clinics are bringing in revenue of about \$ per month after paying the doctors \$ per month. In addition to the clinic sites the organization goes to City and City, State about 10 times per year and City, State about once per month. Patient volume has increased. He said the income of the clinics has grown 40 -50 % per year.

Forms 941

ORG had employees and paid wages but failed to file Employment Tax Forms 941, Employer's Quarterly Tax Return, for the reporting periods January 20XX through March 20XX and July 20XX through December 20XX. The Information Document Retrieval System (IDRS), an internal reporting information system data base, was used to determine the non-filed periods of Form 941.

Wages paid subject to Form 941 reporting were determined from examination of Daily Sheets and checks written on ORG's summoned bank accounts. Examination of the organization's cancelled bank checks revealed that ORG paid house rent and utilities for the president along with car payments, insurance, and personal living and travel expenses.

ORG also paid house rent and utilities for the employees caring for its grow houses, and for employees living in State. The following schedule was prepared by the revenue agent to reflect the wages paid to employees based on examination of the organization's cancelled bank checks and credit card statements.

Quarter	Wages		Difference
	Paid	Per 941	
20XX03		-	
20XX06		-	
20XX09		-	
20XX12		-	
20XX03		-	
20XX09		-	
20XX12		-	

Although the column header is titled Per 941, no returns were filed.

The following table prepared by the revenue agent reflects the wages paid by the organization for the reporting periods June 20XX through June 20XX.

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<u>Quarter</u>	<u>Wages Paid</u>	<u>Tax Liability</u>
20XX06		
20XX09		
20XX12		
20XX03		
20XX06		

ORG filed Employment Tax Forms 941 for the reporting periods June 20XX through June 20XX but failed to meet the related tax liability for those periods. Although a check was submitted with the forms it was dishonored for payment. The non-paid tax liability on the reported wages was referred to Collection Division by the Service Center for payment. Levies have been issued.

Examination of ORG's Daily sheets and cancelled bank checks revealed that ORG paid additional wages above those reported on Forms 941 for the reporting periods April 20XX through June 20XX.

<u>Quarter</u>	<u>Wages Paid</u>	<u>Per 941</u>	<u>Difference</u>
20XX06			
20XX09			
20XX12			
20XX03			
20XX06			

Since ORG has failed to properly report wages paid, amended Forms 941 and the related tax liability are currently due and owing.

Forms W-3 and W-2

IRC §6051(a) (Receipts for Employees) and section 31.6051-1(a) and (b) of the Employment Tax Regulations provide that employers must furnish the tax return copy and the employee's copy of Form W-2, Wage and Tax Statement, to employees for remuneration paid during the calendar year. The time for furnishing the Form W-2 to each employee is on or before January 31 of the succeeding year.

ORG failed to file Forms W-3, Transmittal of Wage and Tax Statements, with the service, or issue Forms W-2, Wage and Tax Statement, to its employees for the tax years ending 20XX through 20XX.

Forms 945 and 1099-MISC

IRC §6041(a) requires taxpayers that are engaged in a trade or business to file an information return if, in a calendar year, a payment of \$ or more is made to an independent contractor. A copy of Form 1099-MISC, Miscellaneous Income,

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may be used for this purpose. Form 1099-MISC is used by the payor to report these payments. In addition, IRC section 6041(d) provides that the payor must furnish the payee a written statement setting forth the amount of such payments. A copy of Form 1099-MISC may be used for this purpose. The time for furnishing the statement to the payee is set forth in section 6041(d). The statement must be furnished to the payee on or before January 31st of the year following the calendar year for which the return was made.

President, President of ORG, stated in the initial interview, held on December 18, 20XX, that the organization treated the doctors who worked in the clinics as independent contractors. He went on to state that there were no formal contracts, just verbal agreements, and that they were paid cash on a daily basis.

Examination of Daily Sheets and cancelled checks from the organization revealed that the doctors were paid;

<u>Year</u>	<u>1st Qtr</u>	<u>2nd Qtr</u>	<u>3rd Qtr</u>	<u>4th Qtr</u>	<u>Total</u>
20XX					
20XX					
20XX					

ORG failed to file information Forms 945, Annual Return of Withheld Federal Income Tax, with the service on payments made to independent contractors and issue Forms 1099-MISC, Miscellaneous Income, to Independent Contractors for the tax years ending 20XX through 20XX.

CONCLUSION:

On the basis of the examination of the books, records, and activities of ORG, the organization fails to qualify for exempt status under IRC §501(c)(3). ORG failed to operate exclusively for charitable or educational purposes. ORG failed to notify the IRS of its change in operation. ORG is operated in a manner materially different from that originally represented. (Rev. Proc. 20XX-9, I.R.B. 20XX-2 (January 14, 20XX) , Section 12.

ORG receives no public support. ORG has received 100% of its financial support from client fees for services from the operation of its clinics. ORG failed the public support test of Treas. Reg. §1.170A-9(e) that allows classification of ORG as a public charity under IRC §509(a)(1) & 170(b)(1)(A)(vi).

ORG is operated in the same manner as a for-profit business, not a public charity. The clinics are open to the general public by appointment or on a walk-in basis. All payments were required to be made in cash, money order, or by credit / debit card. No patients were able to bill the visit to their medical insurance company. During this examination, the President of the organization, President, stated that ORG was attempting to buy the practice of a deceased doctor in the City, State area. During the conversation President stated that the

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purchase of the practice should increase the profits of the organization 15%. In a later conversation, President revealed that the organization was unable to buy the practice. The attempted purchase of a practice in State and the comments of the President are indications of the for-profit businesslike operation of the organization to expand the clinic operations into State. This operation fails the operational test set out in Treas. Reg. 1.501(c)(3)-1(c)(1) as an organization regarded as “operated exclusively” for one or more exempt purposes.

ORG’s board is a closely held board. President stated that the organization is set up in the way it is so he could have complete operational control. He is the only one who signs checks and approves billing. He authorizes payments of his own personal expenses including house rent, car payments, and cash withdrawals. Although in form the Board authorized the president to pay his own expenses up to \$, this threshold was exceeded in 20XX. During the audit years \$ was expended on personal expenses. President failed to report any of these payments as compensation on Form 990 or Form 1040. By statute President, as an organization officer, is an employee of the organization, Regulation §31.3121(d)-1(b). Regulations §1.501(c)(3)-1(c)(2) provides that the operational test is not satisfied where any part of the organization’s earnings inure to the benefit of private shareholders or individuals, and where the organization serves a private benefit rather than public interests. The payment of \$ constitutes inurement to President.

ORG did not keep complete records; bank records were incomplete and had to be summonsed, Daily Sheets were missing, source documents for expenses were missing or incomplete. ORG failed to present adequate records to meet its burden of showing that its operations were primarily for religious or charitable purposes. ORG failed to keep adequate records as required by IRC §6001.

ORG has failed to file the following required forms with the Internal Revenue Service:

ORG failed to file Form 990 for the calendar year 20XX. Form 990 for the tax year ending 20XX was due May 15, 20XX. This return has not been filed to date and is currently delinquent.

ORG had employees and paid wages but failed to file Employment Tax Forms 941, Employer’s Quarterly Tax Return, for the reporting periods January 20XX through March 20XX and July 20XX through December 20XX.

ORG failed to file Forms W-3, Transmittal of Wage and Tax Statements, with the service, or issue Forms W-2, Wage and Tax Statement, to its employees for the tax years ending 20XX through 20XX.

ORG failed to file information Forms 945, Annual Return of Withheld Federal Income Tax, with the service on payments made to independent contractors and issue Forms 1099-MISC, Miscellaneous Income, to Independent Contractors for the tax years ending 20XX through 20XX.

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ORG failed to file Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code. The organization is required to report taxes on managers, self-dealers, or disqualified persons in Part II – A with respect to excess benefit transactions and the amount of excise tax imposed by IRC §4958.

Based on the examination of the books, records, and activities, revocation of ORG's exempt status is being proposed effective January 1, 20XX.

ORG should file Forms 1120, U.S. Corporation Income Tax Return, for each year under examination and each subsequent year. When filing the Forms 1120, the organization should refer to IRC §280E to determine the deductibility of expenses incurred in the production of the medical marijuana at their grow houses.